



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242

April 17, 2013

501.19-00

Number: **201338048**
Release Date: 9/20/2013

LEGEND

ORG - Organization name

XX - Date Address - address

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

In a determination letter dated December 20XX, you were held to be exempt from Federal income tax under section 501 (c)(19) of the Internal Revenue Code (the Code).

Based on our examination of your operations beginning with your fiscal year ended October 31, 20XX, we hereby determine that you have not operated in a manner consistent with our continuing recognition of you as an organization described in section 501(c)(19). Your net earnings inured to a private shareholder or individual of your organization. In addition, in a substantial manner, you operated for purposes other than those enumerated in Treas. Reg. section 1.501(c)(19)-1(c). Accordingly, your exemption from Federal income tax is revoked effective November 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(19) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file taxable returns on Forms 1120, *US Corporation Income Tax Return*, for the years ended October 31, 20XX, 20XX, 20XX, 20XX and all future periods with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Nanette M Downing
Director, EO Examinations

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
Attn: A.C. M/S O540
100 SW Main Street, STE 1200
Portland, OR 97204

Department of the Treasury

Date: November 14, 2012

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

Certified Mail – Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018-A, *Consent to Proposed Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018-A
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended October 31, 20XX – October 31, 20XX	

LEGEND

ORG - Organization name EIN - ein XX - Date State - state President - president Secretary - secretary BM-1 & BM-2 - 1st & 2nd BM RA-1 & RA-2 - 1st & 2nd RA CO-1 THROUGH CO-33 - 1st THROUGH 33rd COMPANIES

Issue:

Whether ORG's ("Association") status under Internal Revenue Code ("IRC") section 501(c)(19) should be revoked because:

1. Its net earnings inured to the benefit of its Former President and current Executive Director and Board Member, BM-1.
2. It is operated for a substantial non-exempt purpose.

Facts:

The Internal Revenue Service recognized the Association as tax exempt under IRC section 501(c)(19) on December 15, 20XX.

We started an examination of the Form 990 for the tax period ended October 31, 20XX on October 27, 20XX. We expanded the examination to include the tax periods ended October 31, 20XX and October 31, 20XX. The Association has not filed the Form 990 for these tax periods.

Governance:

The Association filed Articles of Incorporation on November 7, 20XX with the State of State Secretary of State's Office. The State of State administratively dissolved the Association as of January 6, 20XX.

According to the most recent annual report filed with the Secretary of State on November 2, 20XX, the President was President and the Secretary was Secretary. According to the Form 990 filed on June 1, 20XX, the officers of the Association were BM-1, Secretary and BM-2 for the fiscal year ended October 31, 20XX.

The Articles dated November 6, 20XX state, "This corporation is organized exclusively for charitable purposes as an association of war veterans of the United States, within the meaning of Section of 501(c)(19), and 170(c)(3) of the Internal Revenue Code of 1986, as now enacted or hereafter amended, including, for such purposes, the making of distributions to organizations that also qualify as Section 501(c)(19) exempt organizations. To this end, the corporation shall:

- 1) Further comradeship among persons who are or have been members of the United States Armed Forces;
- 2) Honor the memory of deceased veterans and members of the Armed Forces and aiding and comforting their survivors;
- 3) Encourage patriotism by sponsoring and participating in activities of a patriotic nature;
- 4) Aid hospitalized, disabled and needy war veterans and their dependents;

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- 5) Provide insurance and death benefits to members and/or their dependents;
- 6) Promote the social welfare of the community;
- 7) Provide occasional social and recreational activities for members;
- 8) Sponsor legislation, lobby, and participate in political activity and support candidates for public office in order to advance the above listed exempt purposes, primarily by contributing in-kind services and financial contributions to a separate IRC 527 political organization."

The Association has not provided minutes of board meetings prior to July 21, 20XX. The Association provided meeting minutes for July 21, 20XX and July 28, 20XX. No subsequent meeting minutes were provided.

In the July 21, 20XX meeting, the board reviewed the financial activities for the fiscal years 20XX, 20XX and 20XX. The board moved to ratify all of the transactions, actions and financial reports for those years. The board also ratified that all activities in those years were in accordance with the mission of the Association.

In the July 28, 20XX meeting, the board motioned to request BM-1 to submit a proposal for administrating the affairs of the Association.

Form 990 and Financial Transactions:

The Association reported the following income, expenses, assets and liabilities on its Form 990 for the tax period ended October 31, 20XX. The Association has not filed a Form 990 for the tax period ended October 31, 20XX or October 31, 20XX.

REVENUE:

Contributions, gifts, grants:

Other revenue: Uncategorized Income _____

TOTAL REVENUE

EXPENSES:

Compensation of officers, etc.:

Consulting - General

Legal fees:

Lobbying:

Political Cont. - Campaign

Utilities

Occupancy:

Office Expense

Travel:

Conferences, conventions, etc:

Registration Fees

Education/media

Convention or Meeting Expense

Advocacy Programs

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax identification Number EIN	Year/Period ended October 31, 20XX – October 31, 20XX

Charitable donation

Political Cont. - Advocacy

Political Cont. - Initiative

Political Cont. - Research

Advocacy Services

Consulting - General

Consulting - Legislative

Consulting - Political

Supplies and Materials

Printing and Reproduction

Other Expenses:

Bank Fees

Postage and Delivery

Website Development

Other Miscellaneous Expenses _____

TOTAL EXPENSES _____

Substantially all of the Association's revenue came from donations. The Association received a total of \$\$ in donations of which one donor, RA-1, contributed \$\$.

Exhibit A shows the expense detail of the organization. The Internal Revenue Service sent Form 4564, *Information Document Request*, to the Association on March 2, 20XX and May 4, 20XX requesting the following information relating to the expenses. To date, the Association has not responded to the request.

For the following expenses, provide all supporting documentation to substantiate the expenses including invoice, contracts, receipts and any approvals relating to the expenses.

<u>Date</u>	<u>Number</u>	<u>Name</u>	<u>Amount</u>
11/7/20XX		CO-1	
11/18/20XX		CO-2	
12/3/20XX		CO-3	
12/11/20XX		CO-4	
12/24/20XX		CO-5	
1/5/20XX		CO-6	
1/5/20XX		CO-7	
1/13/20XX		CO-7	
1/16/20XX		CO-8	
1/20/20XX		CO-9	
1/20/20XX		CO-10	
1/20/20XX		CO-8	
1/21/20XX		CO-11	
1/22/20XX		CO-12	
1/26/20XX		CO-13	
2/2/20XX		CO-14	
2/5/20XX		CO-15	

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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3/5/20XX	CO-16
3/9/20XX	CO-17
3/10/20XX	CO-18
3/11/20XX	CO-19
3/16/20XX	CO-20
3/31/20XX	CO-6
5/4/20XX	CO-21
5/7/20XX	CO-22
5/13/20XX	CO-22
5/21/20XX	CO-9
5/22/20XX	CO-22
5/27/20XX	CO-22
6/1/20XX	CO-22
6/1/20XX	CO-22
6/1/20XX	CO-22
6/12/20XX	CO-23
7/6/20XX	CO-23
7/13/20XX	CO-22
9/28/20XX	CO-24
9/28/20XX	BM-1
9/29/20XX	CO-11
10/5/20XX	CO-20
10/19/20XX	CO-25

For the payments to the following organizations, provide (a) What was the purpose of the payments, (b) did the organization follow-up on the use of the funds, (c) provide any documentation (i.e. correspondence, contracts, reports, etc) showing what the funds were used for and (d) the relationship between ORG and the named organization.

<u>Date</u>	<u>Number</u>	<u>Name</u>	<u>Amount</u>
1/6/20XX		CO-26	
1/21/20XX		CO-27	
3/5/20XX		CO-27	
3/30/20XX		CO-27	
10/9/20XX		CO-27	
10/29/20XX		CO-27	
1/6/20XX		CO-28	
3/30/20XX		CO-28	
10/9/20XX		CO-28	
3/5/20XX		CO-29	

For the following payments made to BM-1 or CO-30, provide all records showing the services provided to ORG. As stated during the initial interview, there were not any written contracts between the organization and BM-1 or CO-30. If there is any other correspondence or documentation showing what the payments are being used for please provide that as well.

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Name of taxpayer	Tax Identification Number	Year/Period ended	
ORG	EIN	October 31, 20XX – October 31, 20XX	

TABLE DELETED

TABLE DELETED

In the interview with BM-1 and as reported on the Form 990, BM-1 is the owner of CO-30.

The organization has not filed any information returns for payments made to employees or independent contractors.

Membership:

The Association is a membership organization. The Association does not charge or collect dues or any other fees from its members. During the initial interview, BM-1 stated that to become a member, an individual would visit the Association's website and complete the contact form, which includes their branch and years of service. He stated that the Association does not follow-up with the member to verify the accuracy of the information by reviewing Form DD-214 or other discharge forms.

The bylaws of the organization state the following membership requirements:

Association Membership

2.1 IRC Requirements. ORG shall have three classes of members consistent with the membership rules described in IRC 170(c)(3). The three classes of membership shall be defined as:

2.1.1 War Veteran Members. ORG shall have a membership of at least (%) war veterans. A war veteran is a person who served in the Armed Forces of the United States during periods of war, whose dates of military service are specifically recognized within IRC 170(c)(3):

- a. April 21, 18XX, through July 4, 19XX;
- b. April 6, 19XX, through November 11, 19XX;
- c. December 7, 19XX, through December 31, 19XX;
- d. June 27, 19XX, through January 31, 19XX;
- e. February 28, 19XX, through May 7, 19XX in the case of a veteran who served in the Republic of Vietnam during that period;
- f. August 5, 19XX, through May 7, 19XX; and
- g. August 2, 19XX, and ending on the date prescribed by Presidential Proclamation or by law.

2.1.2 Associate Members. Associate members shall not make up more than (%) of the total membership. Qualification for membership shall comply with IRC 170(c)(3):

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- a. Spouses, widows, or widowers of war veterans~
- b. Veterans (not otherwise qualifying as "war veterans")
- c. Cadets

2.1.3 Honorary Members. ORG may offer honorary membership privileges to persons of the general public who are not classified as either war veteran members or associate members. Honorary members shall be selected by the Board of Directors and shall not make up more than % of the total Association membership.

2.1.4 Other Classes. There shall be no other class of membership in State War Veterans Association, except as listed in Article II, 2.1.1, 2.1.2 and 2.1.3

2.2 Member Application. All member candidates shall complete an application for membership, provided by the Association in order to qualify for one of the three classes of membership. War veteran and associate members shall be approved upon verification of a valid application and receipt of membership dues. Honorary members shall be approved by the Board of Directors.

2.3 Member Records. The executive director shall maintain a detailed record of all members, their dates of service, whether they are war veterans, have served in Vietnam (or not), and whether they are spouses, widows, widowers, veterans or cadets, or honorary members. The executive shall record all association activities where members are directly involved, along with the names of participants and their roles during the activity.

2.4 Member Privileges. Members may participate in all activities related to the specific purposes of ORG. Members may also participate in the annual convention, regular patriotic activities, fundraising, political "grass roots" efforts, scheduled social activities, insurance programs, scholarship programs, and any other programs or services offered by the Association. Members may also qualify for benevolent benefits, drug treatment services or financial assistance for such treatments, and other benefits offered by the Association.

Activities:

According to the Form 990, the activities of the Association are to provide services to veterans and to aid and comfort their survivors. Additionally, the Association encourages patriotism by sponsoring and participating in activities of a patriotic nature and promotes social welfare in the community. Finally, the Association sponsors legislation and political activity and provides support for candidates for public office in order to advance their exempt purpose.

To date the Association has not provided any records or other documentation to show that they conducted any of the above activities except for donations made to candidates for public office. BM-1 provided during the initial meeting that the Association did not provide any membership activities and that the activities conducted were primarily legislative and political.

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The Association made payments to the following organizations during the year under examination.

Name	Total Amount of Payments	Purpose of Payments
CO-13	\$	Donation
CO-6	\$	Donation
CO-31	\$	Donation
CO-26	\$	Political Cont. – Advocacy
CO-27	\$	Political Cont. – Advocacy
CO-27	\$	Political Cont. – Initiative
CO-27	\$	Political Cont. – Research
CO-29	\$	Political Cont. – Advocacy
CO-28	\$	Political Cont. – Initiative
CO-28	\$	Political Cont. – Research

CO-33 is an State non-profit corporation. The corporation does not have tax-exempt status with the Internal Revenue Service. According to its website, the mission is to represent a unified position on matters concerning State's veterans.

BM-1 incorporated military CO-32 as an State for-profit corporation on March 2, 20XX. On June 15, 20XX, the corporation was dissolved. On the same date, BM-1 incorporated the Foundation as an State non-profit corporation. On September 8, 20XX, the non-profit corporation was dissolved. The Internal Revenue Service did not recognize the corporation as a tax-exempt organization.

CO-31 is incorporated as an State non-profit corporation. The Internal Revenue Service recognizes the corporation as an IRC Section 501(c) (3) organization. Their mission is to provide grant writing services to numerous non-profit organizations in the Portland metropolitan area and support for Non-Profits needing financial assistance.

CO-26 is incorporated as an State non-profit corporation. The Internal Revenue Service as tax-exempt under IRC section 501(c) (4) recognizes the corporation. CO-11 is the Registered Agent for this organization. The mission is to help educate the public about issues regarding public safety and proposals to reduce crime.

CO-28 was organized in the State of State. The Internal Revenue Service does not recognize the LLC as a tax-exempt organization. The registered agent and member of the LLC is CO-11. CO-27 and CO-29 are both registered Assumed Business Names for CO-28.

Law:

Internal Revenue Code

IRC Section 170(c)(3) defines the term "charitable contribution" to mean a contribution or gift to or for the use of a post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization that is (A) organized in the United States or any of its possessions, and (B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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IRC Section 501(c)(19) is a post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization that is (A) organized in the United States or any of its possessions, (B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the Armed Forces of the United States or of cadets, and (C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

IRC Section 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC Section 6033(a)(1) provides, except as provided in IRC Section 6033(a)(2), every organization exempt from tax under IRC Section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws. The Secretary may also prescribe by forms or regulations the requirement of every organization to keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

IRC Section 6043(b) provides that every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under Section 501(a) shall file such return and other information with respect to such liquidation, dissolution, termination, or substantial contraction as the Secretary shall by forms or regulations prescribe; except that —

6043(b)(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in Section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$, and

6043(b)(2) the Secretary may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in Section 401(a), where the employer who established such organization files such a return.

Income Tax Regulations (Treas. Reg.)

Treas. Reg. Section 1.501(c)(19)-1(a)(1) states, for taxable years beginning after December 31, 1969, a veterans post or organization which is organized in the United States or any of its possessions may exempt as an organization described in section 501(c)(19) if the requirements of paragraphs (b) and (c) of this section are met and if no part of its net earnings inures to the benefit of any private shareholder or individual. Paragraph (b) of this section contains the membership requirements such a post or organization must meet in order to qualify under section 501(c)(19). Paragraph (c) of this section outlines the purposes, at least one of which such a post or organization must have in order to so qualify.

Treas. Reg. Section 1.501(c)(19)-1(b)(1) provides that in order to be described in section 501(c)(19) under paragraph (a)(1) of this section, an organization must meet the membership requirements of section 501(c)(19)(B) and this paragraph. There are two requirements that must be met under this paragraph. The first requirement is that at least 75 percent of the members of the organization must be war veterans. For

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purposes of this section the term "war veterans" means persons, whether or not present members of the United States Armed Forces, who have served in the Armed Forces of the United States during a period of war (including the Korean and Vietnam conflicts).

Treas. Reg. Section 1.501(c)(19)-1(b)(2) states the second requirement of this paragraph is that at least 97.5 percent of all members of the organization must be described in one or more of the following categories:

- (i) War veterans,
- (ii) Present or former members of the United States Armed Forces,
- (iii) Cadets (including only students in college or university ROTC programs or at Armed Services academies), or
- (iv) Spouses, widows, or widowers of individuals referred to in paragraph (b)(2)(i), (ii) or (iii) of this section.

Treas. Reg. Section 1.503(c)(19)-1(c) provides that, in addition to the general and membership requirements of paragraphs (a)(1) and (b) of this section, in order to be described in section 501(c)(19) under paragraph (a)(1) of this section an organization must be operated exclusively for one or more of the following purposes:

- (1) To promote the social welfare of the community as defined in Treas. Reg. Section 1.501(c)(4)-1(a)(2),
- (2) To assist disabled and needy war veterans and members of the United States Armed Forces and their dependents, and the widows and orphans of deceased veterans,
- (3) to provide entertainment, care, and assistance to hospitalized veterans or members of the Armed Forces of the United States,
- (4) To carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors,
- (5) To conduct programs for religious, charitable, scientific, literary, or educational purposes,
- (6) To sponsor or participate in activities of a patriotic nature,
- (7) To provide insurance benefits for their members or dependents of their members or both, or
- (8) To provide social and recreational activities for their members.

Treas. Reg. Section 1.503(c)(4)-1(a)(2) states (i) an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements and (ii) the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the

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promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Treas. Reg. Section 1.6001-1(c) states that in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and Section 1.6033-1 through -3.

Treas. Reg. Section 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized Internal Revenue Service officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any Internal Revenue law.

Treas. Reg. Section 1.6033-1(h)(2) provides that every organization that has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the District Director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC Section 6033.

Treas. Reg. Section 1.6033-2(i)(2) provides that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Treas. Reg. Section 1.501(a)-1(c) defines the words "private shareholder or individual" in section 501 refer to persons having a personal and private interest in the activities of the organization.

Revenue Rulings:

Rev. Rul. 84-140, 1984-2 C.B. 56, provided that a veterans organization must satisfy both a membership requirement and a purposes requirement to be eligible to receive tax deductible contributions under IRC 170(c)(3). With respect to the membership requirement, the fact that a small percentage of the members of an organization have not served in the Armed Forces will not, of itself, preclude the organization from being classified as a war veterans' organization under IRC 170(c)(3), provided that at least 90% of its members are war veterans and substantially all of the other members are either veterans, or are cadets, or are spouses, widows, or widowers of war veterans, veterans, or cadets. "War veterans" are defined in Rev. Rul. 84-140 as persons who have served in the United States Armed Forces during a period of war. The periods of war are specified in 38 U.S.C. sec. 101 and Rev. Rul. 78-239, 1978-1 C.B. 162. With respect to the purposes requirement, the organization must be organized and operated primarily for purposes consistent with its status as a war veterans' organization. In Rev. Rul. 84-140, the following purposes meet the requirements of IRC 170(c)(3):

A. Furthering comradeship among persons who have been members of the Armed Forces,

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B. Honoring the memory of deceased veterans and members of the Armed Forces and aiding and comforting their survivors,

C. Encouraging patriotism, and

D. Aiding hospitalized, disabled, and needy war veterans and their dependents.

Court Cases:

The presence of a single substantial nonexempt purpose can destroy the exemption regardless of the number or importance of exempt purposes. Better Bus. Bureau v. United States, 326 U.S. 279, 283, 90 L. Ed. 67, 66 S. Ct. 112 (1945); Am. Campaign Acad. v. Commissioner, 92 T.C. 1053, 1065 (1989); see also Old Dominion Box Co., Inc. v. United States, 477 F.2d 340 (4th Cir. 1973), cert. denied, 413 US 910 (1973) ("operating for the benefit of private parties who are not members of a charitable class constitutes a substantial nonexempt purpose"). When an organization operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the organization by definition does not operate exclusively for exempt purposes. Am. Campaign Acad. v. Commissioner, supra at 1065-1066.

In John Marshall Law School v. The United States, 1981 WL 11168, it was held that the organization was not exempt under Section 501(c)(3) of the Code on the grounds that a portion of their net earning had inured to the benefit of Theo. Fenster, Martin Fenster, and their families. Payments had been made on behalf of or for the benefit of the Fenster families. Payment included items for automobile, educational and travel expenses, insurance policies, basketball and hockey tickets, membership in a private eating establishment, membership in a health spa, interest-free loans, home repairs, personal household furnishings and appliances and golfing equipment.

In Bubbling Well Church of Universal Love, Inc. v. C.I.R., 670 F.2d 104, the organization was denied exempt status under section 501(c)(3) because it could not show that no part of its net income inured to the benefit of private individuals. The organization was controlled by members of the Harbert's family and a substantial amount of the organization's net income was paid for the benefit of the Harbert family. The organization did not provide evidence which showed that the income did not inure to the benefit of the Harbert family.

Taxpayer's Position:

The taxpayer has not yet provided a response to this issue.

Government's Position:

Based on the information available, the Association does not qualify for exemption under IRC Section 501(c)(19). The Association failed to provide adequate books and records and the net earnings of the Association inured to the benefit of BM-1 and other for-profit corporations.

The Association made payments to BM-1 in the amount of \$ and two companies owned by BM-1 in the amount of \$ (\$ paid to CO-30 and \$ paid to Military CO-32). The Association has not provided any documentation showing the purpose of these payments and how they furthered the purposes of the Association. These payments were not reported as compensation to BM-1 or either company on any Forms W-2 or 1099-MISC.

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The Association made payments totaling \$ to CO-28 (dba CO-27 and CO-29) during the year under examination. The Association has not provided any records showing the purpose of the payments and how they furthered the purposes of the Association. CO-28, owned by CO-11, is not a federal tax-exempt organization. RA-2 is the legal counsel for the Association and also received political contributions from the Association totaling \$ during the year under examination.

CO-33 was paid \$ during the year under examination. The Internal Revenue Service does not recognize the corporation as a tax-exempt organization. The mission of the corporation appears to be in furtherance of veterans but the Association has failed to show that the payments made are in furtherance of its exempt purposes.

Exhibit B shows expenses paid by the Association that were not substantiated to show how the expenses furthered the Association purposes as an organization under IRC Section 501(c)(19). Item such as \$\$ paid to CO-8 and \$\$ to CO-16 do not appear to have any business connection to the purposes of a veteran's organization.

The Association did not have a separate office during the year under examination and operated out of BM-1's home. Payments made for utilities are for utilities at BM-1's personal residence. The Association did not provide sufficient documentation to show that the expenses were for the Association and not for BM-1's personal expenses.

The total payments made that inure to the benefit of private individuals, including the unsubstantiated expenses in Exhibit B, are \$\$\$. This is % of the total revenue of the Association. Because IRC Section 501(c)(19) states that no part of the net earning may inure to the benefit of any private shareholder or individual, the Association has failed this test and therefore does not qualify tax-exempt status.

The Association has failed to show that they meet the membership requirements of IRC Sections 501(c)(19) and 170(c)(3). The Association provided their membership records, which consist of information provided by the member via the Association's website. The Association does not attempt to verify the information by requesting copies of the veterans discharge records. The Association is unable to make an accurate calculation of the percentage of their membership that are veterans and war veterans as required under the above IRC sections because they are relying solely on the unsubstantiated information. The Association must substantiate that the veterans served during the specified periods and that they were honorably discharged.

The Association failed to provide any records to substantiate their activities during the period under examination. BM-1 verbally stated that the Association conducted a substantial amount of legislative activities during the year under examination however, he was unable to provide any detailed information on what legislative activities it was involved in.

The Association has failed to show that its activities meet the purposes requirements for an IRC Section 501(c)(19) veteran's organization for the year under examination. In order to meet the test, they must show that they engage primarily in activities that accomplish one or more of such purposes specified in section 501(c)(19). An organization will not meet the test if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Further, an organization is not operated exclusively for one or more exempt purposes of its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Additionally, the Association has failed to file Forms 990 for the tax periods ended October 31, 20XX

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and October 31, 20XX. Since the Association has not filed Forms 990-PF for the tax periods above as required under IRC sections 6001 and 6033(a)(1), the it does not qualify for tax exempt status under IRC section 501(c)(19).

Conclusion:

The Association failed to meet the requirements under IRC section 501(c)(19) and the reporting requirements under IRC section 6033 to be recognized as exempt from federal income tax under IRC section 501(c)(19). Accordingly, the Association's exempt status is revoked effective November 1, 20XX.

The Association should file Form 1120 returns for all tax periods after November 1, 20XX.